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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,722	11/24/1999	BRUCE D. SUNSTEIN	2308/102	5379

2101 7590 10/29/2002

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EXAMINER

REAGAN, JAMES A

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 10/29/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n N .

09/448,722

Applicant(s)

SUNSTEIN ET AL.

Examin r

James A. Reagan

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in response to the amendment received on 23 August 2002.
2. Claims 36-40 have been added (paper #13).
3. Claims 1-40 have been examined.
4. The rejections of claims 1-35 are unchanged.
5. The rejections of claims 36-40 are original.

### **Previous Claim Objections**

6. The objection to claim 16 in the previous Office action is rescinded.

## **RESPONSE TO ARGUMENTS**

7. Applicant's arguments received on 12 March 2002 have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted above in the section labeled "Status of Claims." This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.

8. With regard to the limitations of claims 1, 16, 17, 29, 30, and 31, Applicant argues both *pare* and *Bianco*, separately or in combination, do not teach the use of biometrics as a condition for modifying personal information. Examiner respectfully disagrees. In the case of both *pare* and *Bianco*, Biometric identifications are used in the same manner as a PIN or a password. That is, to positively identify a user with a quantity of information unique to that particular user. Such is the case with the claimed invention, wherein a biometric is provided to ensure the positive identification of the user. Applicant goes on to state that the use of the biometric is not used specifically for the modification of personal information. This falls into the realm of intended use, and, as such, is not given any patentable weight. As written, the language of the claims provides for the use of a qualifying biometric authentication before the user can modify any personal information regarding his account. Inasmuch as a consumer may provide a PIN number before authorizing a transaction, she may also provide a fingerprint scan before authorizing the transaction. In the case of a user providing an iris scan to change their height and weight as shown on a drivers license, the user may also provide a secret password in place of the biometric. The functions are equivalent in that provide the same service.

Art Unit: 3621

9. The following is a **Final Rejection** of all claims and associated limitations pending in the current application as amended in paper #13.

**Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the *entire* reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### **Claim Rejections - 35 USC § 103**

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pare Jr. et al. (U.S. Patent No. 6,154,879) and further in view of Bianco et al. (U.S. Patent No. 6,256,737).

**Claims 1 and 36:**

Pare Jr. et al. shows, in figures 1-16 and related text, a method of administering registration of a personal information in a data base in a manner tending to assure integrity of data therein, the method comprising: obtaining, from each user with respect to whom data is to be placed in the data base, personal information of such user, the content of such personal information initially established by such user in an enrollment phase (column 13, lines 14-17); also obtaining in the enrollment phase a first set of physiological identifiers associated with such user (column 3, lines 43-46; column 13, lines 10-12); storing, in digital storage medium, a data set pertinent to such user, the data set including such user's personal information and a representation of the physiological identifiers associated with such user (Fig 2); permitting a subject to modify information in the stored data set pertinent to such user (column 5, lines 11-13)

Pare Jr. et al. fails to explicitly show the user information can be modified only if (i) the subject provides a new set of physiological identifiers and (ii) it is determined, by recourse to the stored data set, that there is a sufficient match between at least one member in the new set and a corresponding member of the first set, so that the subject is authenticated as such user. Bianco et al. shows, in figures 1-34 and related text, in an analogous art related to the utilization of biometric measurements for the authentication of users, permitting a subject to modify information in the stored data set pertinent to such user only if the subject provides a new set of physiological identifiers and it is determined, by recourse to the stored data set, that there is a sufficient match between at least one member

in the new set and a corresponding member of the first set, so that the subject is authenticated as such user (column 29, lines 5-10). Bianco et al. states that the biometric system (Fig. 1) including the re-enrollment step can be usefully incorporated into banking and financial transaction systems (e.g. ATM machines) (Bianco, column 58, lines 5-14) therefore, it would have been obvious, at the time of the invention, to incorporate the re-enrollment step of Bianco into the biometric ATM access system of Pare.

**Claim 2:**

Pare Jr. et al. shows, in figures 1-16 and related text, medical information is a suitable alternative type of data to credit and debit account numbers (column 2, lines 40-48). Therefore it would have been obvious to one of skill in the art, at the time of the invention to replace the account numbers obtained from the user and stored in the data set (column 13, lines 14-30) with the medical information because choosing a suitable alternative from a known list of alternatives is common and well known in the art.

**Claim 3:**

Pare Jr. et al. shows, in figures 1-16 and related text, a method according to claim 1, wherein the first set includes a plurality of members (column 13, line 10).

**Claim 4:**

Pare Jr. et al. shows, in figures 1-16 and related text, a method according to claim 1, wherein the first set of physiological identifiers includes the appearance of such user's face (column 26, lines 42-44).

**Claim 5:**

Pare Jr. et al. shows, in figures 1-16 and related text, a method according to claim 1, wherein the first set of physiological identifiers includes characteristics of utterances of such user (column 5, lines 22-25).

**Claim 6:**

Pare Jr. et al. shows, in figures 1-16 and related text, a method according to claim 1, wherein the first set of physiological identifiers includes a fingerprint of such user (column 5, lines 22-25).

**Claim 7:**

Pare Jr. et al. shows, in figures 1-16 and related text, a method according to claim 1, wherein the first set of physiological identifiers includes the configuration of an iris in an eye of such user (column 5, lines 22-25).

**Claim 8:**

Pare Jr. et al. substantially discloses the invention as claimed but does not explicitly show the first set includes at least one member selected from the group consisting of a fingerprint of such user and an configuration of an iris in an eye of such user and at least one member selected from the group consisting of characteristics of utterances of such user and the appearance of such user's face. Bianco et al. shows, in figures 1-34 and related text, in an analogous art



related to the utilization of biometric measurements for the authentication of users, first set includes at least one member selected from the group consisting of a fingerprint of such user and an configuration of an iris in an eye of such user and at least one member selected from the group consisting of characteristics of utterances of such user and the appearance of such user's face (Fig 15). The layering of biometric devices, as shown in Bianco, provides flexibility to apply the appropriate level of protection to each resource without decreasing of network productivity (column 29, line 60 – column 30, lines 14).

**Claim 9:**

Bianco et al. shows, in figures 1-34 and related text, a method according to claim 1, wherein, pursuant to step (d), a subject is permitted to modify information in the sorted data set only if the subject provides the new set of physiological identifiers under a condition permitting verification, independent of the physiological identifiers, that the new set is being provided by the person purporting to provide them (column 28, line 43- column 29, line 39).

**Claim 10:**

Bianco et al. shows, in figures 1-34 and related text, wherein the condition includes the physical presence of the subject when providing the new set (column 29, lines 1-10).

**Claim 11:**

Bianco et al. shows, in figures 1-34 and related text, wherein the condition includes having the subject provide the new set when prompted to do so (column 29, lines 1-10).

**Claim 12:**

Bianco et al. shows, in figures 1-34 and related text, wherein the condition includes having the subject provide a non-physiological identifier (column 29, lines 1-10).

**Claim 13:**

Bianco et al. shows, in figures 1-34 and related text, wherein the non-physiological identifier is selected from the group consisting of a password and a pass card (column 29, lines 1-10).

**Claim 14:**

Bianco et al. shows, in figures 1-34 and related text, wherein the non-physiological identifier is provided in the course of a session, over a computer network, employing a user's public and private keys (column 51, lines 2-4; column 50, lines 35-47)

**Claim 15:**

Bianco et al. shows, in figures 1-34 and related text, prompting each user, on a periodic basis, to update the data set pertinent of such user (column 28, lines 43-52).

**Claims 16 and 39:**

Pare Jr. et al. shows, in figures 1-16 and related text, a method for authenticating a user transaction, the method comprising: obtaining a test set of physiological identifiers from a subject purporting to be a specific user (column 3, lines 43-46); accessing information in the data set pertinent to the specific user stored in accordance with the method of claim 1 (column 3, lines 51-55); and determining if there is a sufficient match between at least one member in the test set and a corresponding physiological identifier represented in the data set (column 3, lines 51-55).

**Claim 17:**

Pare Jr. et al. shows, in figures 1-16 and related text, 17 a method for authenticating a user transaction, the method comprising: obtaining a test set of physiological identifiers from a subject purporting to be a specific user (column 3, lines 43-46; column 13, lines 10-12); accessing information in a first data set pertinent to the specific user stored in a registration data base, the data base containing information provided by multiple users in a separate data set for each user, each data set of a specific user (Fig 2; column 3, lines 50-59) including (i) personal information, of the specific user, that has been established by the specific user, and (column 13, lines 13-16) (ii) a representation of a first set of physiological identifiers, associated with the specific user, that has been provided by the specific user (column 13, lines 10-14),; determining if there is a sufficient match between at least one member in the test set and a corresponding physiological identifier represented in the data set (column 3, lines 51-59).

Pare fails to show the data base being maintained under conditions wherein modification by a subject of information in a stored data set pertinent to the specific user is permitted only if (i) the subject provides a new set of physiological identifiers and (ii) it is determined, by recourse to the stored data set, that there is a sufficient match between at least one member in the new set and a corresponding member of the first set, so that the subject is authenticated as the specific user. Bianco et al. shows, in figures 1-34 and related text, in an analogous art related to the utilization of biometric measurements for the authentication of users, the data base being maintained under conditions wherein modification by a subject of information in a stored data set pertinent to the specific user is permitted only if (i) the subject provides a new set of physiological identifiers and (ii) it is determined, by recourse to the stored data set, that there is a sufficient match between at least one member in the new set and a corresponding member of the first set, so that the subject is authenticated as the specific user (column 29, lines 5-10).

**Claim 18:**

Pare Jr. et al. shows, in figures 1-16 and related text, the database is accessible via a server at a first location (Fig. 1); obtaining the test of physiological identifiers is performed at a second location remote from the first location (column 5, lines 1-3, Fig. 3); determining if there is a sufficient match includes communicating with the server from the second location over a network (column 9, lines 25-27).

**Claim 19:**

Pare Jr. et al. substantially discloses the invention as claimed but fails to show obtaining the test set of physiological identifiers is performed under supervision of a merchant. Bianco et al. shows, in figures 1-34 and related text, in an analogous art related to the utilization of biometric measurements for the authentication of users, obtaining the test set of physiological identifiers is performed under supervision of a merchant (column 29, lines 15-21). Employing an administrator (merchant) to oversee the enrollment of a user helps ensure that the user enrolling is really the right person (column 28, lines 42-53). Therefore, it would have been obvious at the time of the invention to include the administrator of Bianco in the biometric ATM access system of Pare.

**Claim 20:**

Bianco et al shows determining if there is a sufficient match is performed without revealing content of the first data set to the merchant (column 28, lines 42-53).

**Claims 21-28:**

21-28, Pare Jr. et al. substantially discloses the invention as claimed but fails to show the transaction is a change of address for an account, is an application to open an account, the account authorizes the transfer of funds, the account is based on the extension of credit to the account holder, the transaction is an application to a government agency for one of a license and a renewal of a license, the transaction is an application to a government agency for one of a

license and a renewal of a license. It would have been obvious to one of skill in the art at the time of the invention to make the transaction a change of address for an account, an application to open an account, an application to a government agency for one of a license and a renewal of a license, an application to a government agency for one of a license and a renewal of a license or to make the account based on the extension of credit to the account holder because of these transactions are well known in the art to require user verification and the invention of Bianco describes a method of verifying a user.

**Claim 29:**

Pare Jr. et al. shows, in figures 1-16 and related text, a digital storage medium on which has been recorded a multi-user personal information data base, the data base comprising, for each specific user, a data set pertinent to the specific user (column 3, lines 39-43), the data set including: the specific user's personal information obtained from the specific user (column 3, lines 39-43); a representation of a first set of physiological identifiers associated with the specific user (column 3, lines 43-46); the user's emergency information obtained from the specific user (column 2, lines 40-48). Pare Jr. et al fails to show the storage medium being maintained under conditions wherein modification by a subject of information is a stored data set pertinent to the specific user is permitted only if (i) the subject provides a new set of physiological identifiers and (ii) it is determined, by recourse the stored data set, that there is a sufficient match between at least one member in the new set and a corresponding member of the first set, so that

the subject is authenticated as the specific user. Bianco et al. shows, in figures 1-34 and related text, in an analogous art related to the utilization of biometric measurements for the authentication of users, the storage medium being maintained under conditions wherein modification by a subject of information in a stored data set pertinent to the specific user is permitted only if (i) the subject provides a new set of physiological identifiers and (ii) it is determined, by recourse to the stored data set, that there is a sufficient match between at least one member in the new set and a corresponding member of the first set, so that the subject is authenticated as the specific user (column 29, lines 5-10). Bianco et al. states that the biometric system (Fig. 1) including the re-enrollment step can be usefully incorporated into banking and financial transaction systems (e.g. ATM machines) (Bianco, column 58, lines 5-14) therefore, it would have been obvious, at the time of the invention, to incorporate the re-enrollment step of Bianco into the biometric ATM access system of Pare.

**Claim 30:**

Pare Jr. et al. shows, in figures 1-16 and related text, a system for updating a personal information database containing a data set for each one of multiple users (column 3, lines 39-43), each data set including a user's personal information and a representation of a first set of physiological identifier associated with the user (column 3, lines 39-43), the system comprising: a physiological identifier associated with a subject (column 3, lines 43-46); a user access authorization module, coupled to the physiological identifier transducer

(column 5, lines 22-25), the database, for determining whether the output of the physiological identifier transducer sufficiently matches the representation of the first set of physiological identifiers, so that the subject is authenticated as the user (column 3, lines 43-54); a user data set access module, coupled to the user access authorization module and to the database, for accessing the user data set (column 5, lines 10-12); a user data set update module, coupled to the database and to a user input, permitting the user to update such user's corresponding data set in the database (column 5, lines 10-12). Pare Jr. et al fails to explicitly show that the user access authorization module has authenticated the subject and the user prior to accessing the user data set. Bianco et al. shows, in figures 1-34 and related text, in an analogous art related to the utilization of biometric measurements for the authentication of users, the user access authorization module has authenticated the subject and the user prior to accessing the user data set (column 5, lines 10-12). Bianco et al. states that the biometric system (Fig. 1) including the re-enrollment step can be usefully incorporated into banking and financial transaction systems (e.g. ATM machines) (Bianco, column 58, lines 5-14) therefore, it would have been obvious, at the time of the invention, to incorporate the re-enrollment step of Bianco into the biometric ATM access system of Pare.

**Claim 31:**

Pare Jr. et al. shows, in figures 1-16 and related text, a system for authenticating transactions, the system comprising: a multi-user personal



information data base, the data base comprising, for each specific user, a data set pertinent to the specific user (column 3, lines 39-43), the data set including: (i) personal information, of the specific user, that has been established by the specific user (column 3, lines 39-43); (ii) a representation of a first set of physiological identifiers, associated with the specific user, that has been provided by the specific user (column 3, lines 43-46); a multiplicity of remotely distributed terminals in communication with the data base, each terminal including a physiological identifier transducer and a communication link with a merchant (column 5, lines 1-5 & 19-33); an authenticity checker, which determines whether there is a sufficient match between the output of the a physiological identifier in the first set (column 3, lines 50-55). Pare Jr. et al. fails to explicitly show the data base being under condition wherein modification by a subject of information in a stored data set pertinent to the specific user is permitted only if (i) the subject provides a new set of physiological identifiers and (ii) it is determined, by recourse to the stored data set, that there is a sufficient match between at least one member in the new set and a corresponding member of the first set, so that the subject is authenticated as the specific user. Bianco et al. shows, in figures 1-34 and related text, in an analogous art related to the utilization of biometric measurements for the authentication of users, the data base being under condition wherein modification by a subject of information in a stored data set pertinent to the specific user is permitted only if (i) the subject provides a new set of physiological identifiers and (ii) it is determined, by recourse to the stored data

set, that there is a sufficient match between at least one member in the new set and a corresponding member of the first set, so that the subject is authenticated as the specific user (column 29, lines 5-10). Bianco et al. states that the biometric system (Fig. 1) including the re-enrollment step can be usefully incorporated into banking and financial transaction systems (e.g. ATM machines) (Bianco, column 58, lines 5-14) therefore, it would have been obvious, at the time of the invention, to incorporate the re-enrollment step of Bianco into the biometric ATM access system of Pare.

**Claim 32:**

Pare Jr. et al. shows, in figures 1-16 and related text, the first set includes a plurality of members (column 13, line 10).

**Claim 33:**

Pare Jr. et al. substantially discloses the invention as claimed but does not explicitly show the first set includes at least one member selected from the group consisting of a fingerprint of the user and the configuration of an iris in an eye of the user and at least one member selected from the group consisting of characteristics of utterances of the user and the appearance of the user's face. Bianco et al. shows, in figures 1-34 and related text, in an analogous art related to the utilization of biometric measurements for the authentication of users, first set includes at least one member selected from the group consisting of a fingerprint of such user and an configuration of an iris in an eye of such user and at least one member selected from the group consisting of characteristics of

utterances of such user and the appearance of such user's face (Fig 15). The layering of biometric devices, as shown in Bianco, provides flexibility to apply the appropriate level of protection to each resource without decreasing of network productivity (column 29, line 60 – column 30, lines 14).

**Claim 34:**

Pare Jr. et al shows, in figures 1-16 and related text, obtaining personal information of such user includes obtaining data pertaining to one or more merchants (column 13, lines 13-16).

**Claims 35, 37, and 40:**

Pare Jr. et al shows, in figures 1-16 and related text financial information that may be in the data set is not limited to that of a particular banking or financial institution (column 13, lines 13-16).

**Claim 38:**

Pare Jr. et al shows, in figures 1-16 and related text discloses, "...DPC site acts as the registration site, for implementation simplicity..." (column 13, line 18).

### Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3621

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **James A. Reagan** whose telephone number is **(703) 306-9131**. The examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **James Trammell** can be reached at (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 305-3900**.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

**Washington, D.C. 20231**

or faxed to:

**(703) 305-7687** [Official communications; including

After Final communications labeled "Box AF"]

**(703) 308-1396** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451  
Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

JAR

23 October 2002

  
**JAMES P. TRAMMELL**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**